

## § 3202.10

health benefits, life cycle cost, sustainability benefits, and product performance made by the manufacturer.

(b) *Record retention.* For each certified biobased product, records kept under paragraph (a) of this section must be maintained for at least three years beyond the end of the label certification period (*i.e.*, three years beyond the period of time when manufacturers and vendors cease using the certification mark). Records may be kept in either electronic format or hard copy format. All records kept in electronic format must be readily accessible, and/or provided by request during a USDA audit.

### § 3202.10 Oversight and monitoring.

(a) *General.* USDA will conduct oversight and monitoring of manufacturers, vendors, designated representatives, and other entities involved with the voluntary product labeling program to ensure compliance with this part. This oversight will include, but not be limited to, conducting facility visits of manufacturers and vendors who have certified biobased products, and of their designated representatives. Manufacturers, vendors, and their designated representatives are required to cooperate fully with all USDA audit efforts for the enforcement of the voluntary labeling program.

(b) *Biobased content testing.* USDA will conduct biobased content testing of certified biobased products, as described in § 3202.8(b)(1) to ensure compliance with this part.

(c) *Inspection of records.* Manufacturers, vendors, and their designated representatives must allow Federal representatives access to the records required under § 3202.9 for inspection and copying during normal Federal business hours.

(d) *Audits.* USDA expects to conduct audits of the voluntary labeling program on an ongoing basis with audit activities conducted every other calendar year (bi-annually). Audit activities will include three stages and will be conducted in sequential order as follows:

(1) Stage 1 auditing includes contacting all participants via email and requesting that they complete a “Declaration of Conformance Form.” Pro-

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gram participants are asked to confirm that they still manufacture the product and that the formulation and manufacturing processes remain the same. Participants are also asked to list all active products and advise the USDA of any complaints regarding the claim of the biobased content. The first Stage 1 auditing activity was completed in 2012 and the second Stage 1 audit will be conducted in 2018.

(2) Stage 2 auditing consists of a random sampling of certified products to confirm the accuracy of biobased content percentages claimed. The participants whose products are selected will be required to submit product samples to be tested by independent testing labs at USDA expense. The first Stage 2 auditing activity began in 2014 and is scheduled to be completed during 2015 and the second Stage 2 audit will be conducted in 2020.

(3) Stage 3 auditing requires manufacturers of products that have been certified for 5 years or more to have their products re-tested at their expense to confirm that the biobased content remains at or above the level at which the product was originally certified. The first Stage 3 auditing activity is scheduled to be completed during 2016 and the second Stage 3 audit will be conducted in 2022.

[76 FR 3806, Jan. 20, 2011. Redesignated and amended at 76 FR 53632, Aug. 29, 2011; 80 FR 34039, June 15, 2015]

## PART 3203—GUIDELINES FOR THE TRANSFER OF EXCESS COMPUTERS OR OTHER TECHNICAL EQUIPMENT PURSUANT TO SECTION 14220 OF THE 2008 FARM BILL

### Sec.

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AUTHORITY: 7 U.S.C. 2206b.

## Office of Procurement and Property Management, USDA

## § 3203.4

SOURCE: 77 FR 26661, May 7, 2012, unless otherwise noted.

### § 3203.1 Purpose.

This part sets forth the procedures to be utilized by USDA when transferring excess USDA computers or other technical equipment to an organization for the purposes of distribution to a city, town, or local government entity in a rural area as authorized by 7 U.S.C. 2206b.

### § 3203.2 Eligibility.

To be eligible under this part:

(a) A city, town, or local government entity must be located in a rural area as defined in 7 U.S.C. 1991(a)(13)(A).

(b) A designated organization must:

(1) Have the documented capability to refurbish and distribute excess computers or other technical equipment;

(2) Serve the interest of cities, towns, or local government entities in rural areas; and

(3) Have been designated by an official of a city, town, or local government entity in a rural area to receive excess computers or other technical equipment under this part.

### § 3203.3 Definitions.

*Cannibalization* means to remove serviceable parts from one item of equipment in order to install them on another item of equipment in order to repair or enhance its operability.

*City, town, or local government entity in a rural area* as defined in 7 U.S.C. 1991(a)(13)(A) means any area other than:

(1) A city or town that has a population of greater than 50,000 inhabitants; and

(2) Any urbanized area contiguous and adjacent to such a city or town described in paragraph (1) of this definition.

*Computers or other technical equipment* means central processing units, laptops, desktops, computer mouses, keyboards, monitors, related peripheral tools (e.g., printers, modems, routers, servers, multimedia projectors, multifunctional devices, external hard drives) and fax machines. This term may also include computer software where the transfer of a license is permitted.

*Designated organization* means an organization that has been selected by an official of a city, town, or local government entity in a rural area to provide refurbishing services on donated computer and technical equipment.

*Excess* means any property under the control of a USDA agency that is no longer required for that agency's or another USDA agency's needs, as determined by the agency head or designee.

*Property Management Officer (PMO)* is an eligible recipient's designated point of contact, responsible for adherence to procedures described in this part.

*Recipient* means a city, town, or local government entity located in a rural area as defined in 7 U.S.C. 1991(a)(13)(A) that may receive excess computers or other technical equipment under this part.

*Refurbish* means to make 'like new' by the process of major maintenance or minor repair of an item, either aesthetically or mechanically.

### § 3203.4 Procedures.

(a) Each agency head will designate, in writing, an authorized official to approve transfers of excess computers or other technical equipment under this part consistent with the Department's policies on personal property management.

(b) Excess computers or other technical equipment must first be internally screened to ensure it is not needed elsewhere in the Department.

(c) To receive information concerning the availability of USDA excess computers or other technical equipment, an eligible recipient's PMO should contact any USDA office near to its location.

(d) The USDA employee responsible for personal property, at the office contacted, will review the request for eligibility of the recipient and the availability of excess computers or other technical equipment. The USDA employee will inform the requestor of the outcome of the review (e.g. eligibility, the availability of excess computers or other technical equipment).

(e) Eligible recipients will express their interest in receiving property under this part by submitting a request, on letterhead paper (electronic

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copy is acceptable), to a USDA authorized official. All requests must originate from, and be signed by, a representative of an eligible recipient city, town, or local government entity. Requests must include:

(1) Type of excess computers or other technical equipment requested (should include specifications);

(2) Justification for eligibility (see § 3203.2);

(3) Contact information of the requestor;

(4) Logistical information such as when and how the property will be picked up; and

(5) Information on the recipient's designated organization (company name, contact person and phone number) that is designated to receive and refurbish the property for the eligible recipient along with a copy of the agreement between the recipient and its designated organization.

(f) Excess computers or other technical equipment should be inspected before the property is transferred or the USDA agency should be contacted to verify the condition of the property.

(g) If the condition of the property is acceptable, the recipient or its designated organization will coordinate with the USDA contact for transfer of the property. Since the USDA agency office may have several requests for property, it is critical that the recipient or its designated organization contact USDA as soon as possible. Property will usually be allocated on a first-come, first-served basis, taking into account fair and equitable distribution of excess computers or other technical equipment to all eligible recipients.

(h) Transfers will be accomplished using the appropriate USDA property transfer form. The transfer form must contain the following statement: "Property listed on this form is being transferred pursuant to the provisions in 7 CFR Part 3203." The form must be signed by an authorized official of the USDA agency and an official of the recipient organization.

(i) A copy of the request that transferred the property must be attached to the transfer order and kept in the USDA agency's files.

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(j) When property is transferred to a designated organization, a copy of the completed transfer document will be sent to the eligible recipient government entity for its records. Eligible recipients are responsible for following up with the designated organization they have designated for the final receipt of the property.

(k) In cases where an agency receives competing requests for excess computers or other technical equipment, to the extent permitted by law, the agency shall give full consideration to such factors as national defense requirements, emergency needs, energy conservation, preclusion of new procurement, fair and equitable distribution, transportation costs, and retention of title in the Government.

(l) Prior to transferring any property pursuant to this Act, the transferring agency must remove data from the excess computers or other technical equipment (memory or any kind of data storage device) according to accepted sanitization procedures. To the maximum extent practicable, the transferring agency must remove data using a means that does not remove, disable, destroy, or otherwise render unusable the excess computers or other technical equipment or components. It is imperative that agencies take the necessary steps to ensure that no personal computer, server, external storage device, or related electronic component is transferred that might contain sensitive or confidential information. See Departmental Manual 3575-001, Security Controls in the System Life Cycle/System Development Life Cycle, for additional guidance.

### § 3203.5 Dollar limitation.

There is no dollar limitation on excess computers or other technical equipment obtained under this part.

### § 3203.6 Restrictions.

(a) Only an authorized USDA official may approve the transfer of excess computers or other technical equipment under this part.

(b) Excess computers or other technical equipment may be transferred for the purpose of cannibalization, provided that the requestor submits a

statement clearly indicating that cannibalization of the requested property will have greater benefit than utilization of the item in its existing form. Cannibalization is a secondary use of equipment and, therefore, these requests are considered subordinate to requests for primary use.

(c) Designated organizations will only receive property for cannibalization when it has been specifically requested by the recipient and the cannibalized parts must only be used in computers or other technical equipment destined for eligible recipients.

#### **§ 3203.7 Title.**

Title of ownership to excess computers or other technical equipment transferred under this part shall automatically pass to the recipient once the transferring agency and recipient or designated organization sign the transfer form indicating that the designated organization has received the property.

#### **§ 3203.8 Costs.**

The designated organization must pay any costs associated with packaging and transportation of the property unless it has made other arrangements. The designated organization must remove property from the USDA agency's premises within 15 calendar days after being notified that the property is available for pickup, unless otherwise coordinated with the USDA agency. If the recipient decides prior to picking up or removing the property that it no longer wants the property, it must notify the USDA agency that approved the transfer request that the property is no longer needed.

#### **§ 3203.9 Accountability and record-keeping.**

(a) USDA requires all excess computers or other technical equipment received by an eligible recipient pursuant to this part be placed into use within one year of receipt of the property and used for at least one year thereafter. The recipient's PMO must maintain accountable records for such property during this time period.

(b) GSA requires that all excess personal property given to non-federal recipients be reported each fiscal year. USDA agencies that transfer property under this part must report the transfers in their annual reports to OPPM and include both the recipient and organization names. OPPM will review the reports for accuracy, as well as fair and equitable distribution of the excess computers or other technical equipment, before submitting to GSA.

#### **§ 3203.10 Disposal.**

When property received under this part is no longer needed by the recipient, it must be disposed of in an environmentally sound manner that is not detrimental or dangerous to public health or safety and in accordance with all Federal, State and local laws.

#### **§ 3203.11 Liabilities and losses.**

USDA assumes no liability with respect to accidents, bodily injury, illness, or any other damages or loss related to excess computers or other technical equipment transferred under this part. The recipient/designated organization is advised to insure or otherwise protect itself and others as appropriate.

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